IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-09-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.28873 of 2007 and
M.P.Nos.1 and 2 of 2007

Tvl.Southern Gas Fittings Pvt. Ltd.,
Rep. by its Director, K.Mohanram Pillai
Mr.K.Mohanaram Pillai,
30, Errabalu Chetty Street,
Chennai-600 001. .. Petitioner.

Versus

The Commercial Tax Officer (FAC),
Harbour I Assessment Circle,
Chennai. .. Respondent.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent dated 15.09.2005 in TNGST No.0000218/2002-03 and quash the same.

For petitioner : Mr.N.Muralikumaran for
McGan Law Firm

For respondent : Mr.R.Mahadevan
Additional Government Pleader

O R D E R

Mr.R.Mahadevan, learned Additional Government Pleader, takes notice for the respondent.

2. With the consent of the learned counsels appearing on either side, the writ petition is taken up for final disposal.

3. It is submitted that the petitioner company is an assessee on the file of the Commercial Taxes Department for the assessment year 2002-03. The Commercial Taxes Department had passed an assessment order in TNGST No.0000218/2002-03, on 11.02.2004. Thereafter, the Commercial Taxes Department had issued a notice, dated 25.06.2004, proposing to levy penalty. The petitioner company had objected to the levy of the penalty vide communication, dated 06.07.2004. The respondent had passed the

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

impugned order without considering the objections raised by the petitioner company. Hence, the petitioner company, had filed the present writ petition stating that the impugned order passed by the respondent, on 15.09.2005, is in violation of the principles of natural justice, as it has been passed without considering the objections filed by the petitioner. Further, it has been stated by the petitioner company that the impugned order had not been served, in accordance with Rule 52 of the Tamil Nadu General Sales Tax Rules, 1959. Therefore, it is submitted by the learned counsel appearing for the petitioner that the impugned order of the respondent, dated 15.09.2005, made in TNGST No.0000218/2002-03 is illegal and invalid.

4. Learned counsel appearing on behalf of the respondent has not refuted the claims made on behalf of the petitioner.

5. On a perusal of the impugned order, it is seen that the respondent had not considered the objections raised on behalf of the petitioner. Further, the impugned order had not been served on the petitioner, in accordance with Rule 52 of the Tamil Nadu General Sales Tax Rules, 1959. In such circumstances, the impugned order of the respondent, dated 15.09.2005, made in TNGST No.0000218/2002-03 is set aside, leaving it open to the respondent to pass a fresh assessment order in accordance with law, after considering the objections raised by the petitioner.

The writ petition is ordered accordingly. No costs. Consequently, connected M.Ps are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

csh

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

To

The Commercial Tax Officer (FAC),
Harbour I Assessment Circle,
Chennai.

+ 1 CC To M/s.Mc Gan Law Firm, Advocate SR NO.56156

+ 1 CC to the Government Pleader SR NO 55855

Writ Petition No.28873 of 2007

mdr[co]
gp/6.10.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/